



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket No. 220225-0060]**

**RIN 0648-BK82**

**International Fisheries; Pacific Tuna Fisheries; 2022-2024 Commercial Fishing  
Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS is proposing regulations under the Tuna Conventions Act of 1950, as amended (TCA), to implement Inter-American Tropical Tuna Commission (IATTC) Resolution C-21-05 (“Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific Ocean”). This proposed rule would implement annual limits on commercial catch of Pacific bluefin tuna (*Thunnus orientalis*) in the eastern Pacific Ocean (EPO) for 2022-2024. This action is necessary to conserve Pacific bluefin tuna and for the United States to satisfy its obligations as a member of the IATTC.

**DATES:** Comments on the proposed rule and supporting documents must be submitted in writing by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2022-0011, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA-NMFS-2022-0011” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Celia Barroso, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2022-0011” in the comments.

*Instructions:* Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2022-0011 or contact the Highly Migratory Species Branch Chief, Lyle Enriquez, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, or [WCR.HMS@noaa.gov](mailto:WCR.HMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Celia Barroso, NMFS, 562-432-1850, [Celia.Barroso@noaa.gov](mailto:Celia.Barroso@noaa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background on the IATTC**

The United States is a member of the IATTC, which was established in 1949 and operates under the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention).<sup>1</sup>

The IATTC consists of 21 member nations and 5 cooperating non-member nations. The IATTC facilitates scientific research into, as well as the conservation and management of, tuna and tuna-like species in the IATTC Convention Area (Convention Area). The Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude. The IATTC maintains a scientific research and fishery monitoring program, and regularly assesses the status of tuna, shark, and billfish stocks in the EPO to determine appropriate catch limits and other measures to promote sustainable fisheries and prevent overexploitation.

### **International Obligations of the United States under the Convention**

As a Party to the Antigua Convention and a member of the IATTC, the United States is legally bound to implement decisions of the IATTC. The TCA, 16 U.S.C. 951 *et seq.*, directs the Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the U.S. Coast Guard, to promulgate such regulations as may be necessary to carry out the United States' obligations under the Antigua Convention, including recommendations and decisions adopted by the IATTC.

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<sup>1</sup> See [https://www.iattc.org/PDFFiles/IATTC-Instruments/\\_English/IATTC\\_Antigua\\_Convention%20Jun%202003.pdf](https://www.iattc.org/PDFFiles/IATTC-Instruments/_English/IATTC_Antigua_Convention%20Jun%202003.pdf).

The authority of the Secretary of Commerce to promulgate such regulations has been delegated to NMFS.

### **Pacific Bluefin Tuna Stock Status**

In 2011, NMFS determined overfishing was occurring on Pacific bluefin tuna (76 FR 28422, May 17, 2011), which is considered a single Pacific-wide stock. Based on the results of a 2012 stock assessment conducted by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC), NMFS determined that Pacific bluefin tuna was not only subject to overfishing, but was also overfished (78 FR 41033, July 9, 2013). Subsequently, based on the results of the 2014, 2016, 2018, and 2020 ISC stock assessments, NMFS determined that Pacific bluefin tuna continued to be overfished and subject to overfishing.<sup>2</sup> The ISC completed a stock assessment in July 2020, which showed that the stock continues to be overfished and subject to overfishing when compared to commonly used reference points. Additionally, projections of catch scenarios (*i.e.*, increases in various amounts and maintaining catch limits) presented in the 2020 stock assessment indicated that catch increases were possible while still meeting the rebuilding targets and consistent with the rebuilding plan agreed to at the IATTC and Western and Central Pacific Fisheries Commission (WCPFC).

### **Pacific Bluefin Tuna Resolutions**

Recognizing the need to reduce fishing mortality of Pacific bluefin tuna, the IATTC has adopted catch limits in the Convention Area since 2012.<sup>3</sup> At its Resumed

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<sup>2</sup> See 80 FR 12621, March 10, 2015; 82 FR 18434, April 19, 2017; 84 FR 19905, May 7, 2019; 86 FR 9910, Feb. 17, 2021.

<sup>3</sup> For more information about previous management measures, see the final rules implementing Resolution C-14-06 (80 FR 38986, July 8, 2015), Resolution C-16-08 (82 FR 18704, April 21, 2017), Resolutions C-18-01 and C-18-02 (84 FR 18409, May 1, 2019), and Resolution C-20-02 (86 FR 16303, March 29, 2021).

98th Meeting in October 2021, the IATTC adopted Resolution C-21-05, which establishes catch limits and reporting requirements for 2021-2024. This resolution was approved by the Secretary of State, prompting implementation by NMFS in this rulemaking.

Since 2016, the IATTC and the Northern Committee (NC) to the WCPFC have held annual joint working group meetings intended to develop a Pacific-wide approach to management of Pacific bluefin tuna. Conservation measures adopted by the IATTC and WCPFC have considered the recommendations of the Joint IATTC – WCPFC NC Working Group (Joint WG). Joint WG recommendations have included initial and second rebuilding targets and criteria that must be met before considering increased catch limits. At its 6<sup>th</sup> meeting held July 26-29 (Japan Standard Time), 2021, the Joint WG considered the ISC projections and noted that the initial rebuilding target may have been met early, and recommended the IATTC and WCPFC increase catch limits consistent with the rebuilding plan previously agreed to by the IATTC and WCPFC. Subsequently, the IATTC considered the Joint WG recommendation when it adopted Resolution C-21-05, which adopted catch limits consistent with the Joint WG recommendation. Furthermore, in July 2021 the Joint WG also recommended to strengthen the long-term harvest strategy of Pacific bluefin tuna by revising the rebuilding plan to specify when catch increases may be considered and when measures (*e.g.*, catch limits) must be adjusted to ensure the second rebuilding target is met. This recommendation was adopted by the IATTC in Resolution C-21-01.

Similar to previous IATTC resolutions on Pacific bluefin tuna, the main objective of Resolution C-21-05 is to reduce overfishing and to rebuild the stock by setting limits

on commercial catch in the IATTC Convention Area during 2021-2024 consistent with a rebuilding plan. The Resolution established both biennial catch limits for 2021-2022 and 2023-2024 and single year catch limits for each year in 2021-2024. The U.S. Pacific bluefin tuna biennial catch limit for 2021-2022 is 739 metric tons (mt), not to exceed 523 mt in a single year. For 2023-2024, the biennial catch limit is 1,017 mt, not to exceed 720 mt in a single year. As in previous resolutions, an IATTC member may add to the new catch limit any under-harvest from the previous catch limit in an amount not to exceed 5 percent of the previous biennial catch limit. For example, the United States may add up to 5 percent of 600 mt (*i.e.*, 30 mt) from 2019-2020 to the 2021-2022 biennial catch limit.

Preliminary estimates from 2021 indicate U.S. commercial vessels caught less than 245 mt (precise estimates are not provided due to confidentiality restrictions). Considering the biennial limit of 739 mt for 2021-2022, the under-harvest from 2019-2020 biennium added to the 2021-2022 biennium (*i.e.*, 30 mt, or 5 percent of 600 mt), and preliminary estimates of the amount caught in 2021, the U.S. commercial limit in 2022 will be 523 mt (*i.e.*, the single-year maximum). In 2023, the annual limit will be 720 mt, the single-year maximum for the 2023-2024 biennium. The limit in 2024 is contingent on the amount of Pacific bluefin tuna caught in 2023 and if there is under-harvest from the 2021-2022 biennial limit added to the 2023-2024 biennial limit.

### **Implementation of Previous IATTC Resolution on Pacific Bluefin Tuna**

NMFS promulgated regulations implementing Resolution C-20-02, which established a 425 mt commercial catch limit for U.S. vessels for 2021 only (86 FR 16303, March 29, 2021; 50 CFR 300.25(g)). Although Resolution C-21-05 establishes a biennial catch limit for both 2021-2022 and 2023-2024, NMFS will be writing regulations that apply to 2022-2024. In addition to establishing an annual catch limit, the regulations for 2021 also imposed an

initial trip limit of 20 mt, an intermediate trip limit of 15 mt, and a low 2 mt trip limit on individual fishing vessels that adjusted as catch thresholds were met throughout the year. These catch thresholds adjusted every quarter of the year to provide an adaptive management approach.

While the catch limits, trip limit values, and thresholds to reduce the trip limits would be different, this proposed rule for 2022-2024 proposes a similar scheme to 2021 management in each year. In addition, the proposed rule would maintain an existing requirement for fish buyers to submit, within 24 hours of landing, electronic landing receipts with Pacific bluefin tuna landings in California ports using the California E-tix system. The proposed rule would also maintain the existing in-season action announcement procedures, under which in-season actions to reduce trip limits and close the fishery (*i.e.*, prohibit targeting, retaining, transshipping and landing of Pacific bluefin tuna) once the annual limit is met, it will be announced on the NMFS website, followed by a United States Coast Guard (USCG) Notice to Mariners, and a Federal Register Notice published as soon as practicable.

#### **PFMC Recommendations for the Implementation of C-21-05**

At its November 2021 meeting, the Pacific Fishery Management Council (PFMC) considered advisory body reports and recommended a scheme similar to what had been implemented for 2021. Because the catch limit in each year would be different, the PFMC recommended different values for the initial and intermediate trip limits. Additionally, based on recent fishery trends by gear-types that catch Pacific bluefin tuna incidentally, a different low trip limit (*i.e.*, 3 mt instead of 2 mt) was recommended. The annual catch and trip limits proposed in this rule are consistent with the PFMC's recommendation and are described in detail in the section titled Proposed Regulations for Pacific Bluefin Tuna in 2022-2024.

## **Pacific Bluefin Tuna Catch History**

While Pacific bluefin tuna catch by U.S. commercial vessels fishing in the Convention Area exceeded 1,000 mt per year in the early 1990s, annual catches have remained below 500 mt for more than a decade. From 2011-2020, catches have ranged from 11 mt to 487 mt, with annual average landings of 210 mt. Average annual Pacific bluefin tuna landings by U.S. commercial vessels fishing in the Convention Area from 2011 to 2020 represent only 1.5 percent of the average annual landings of Pacific bluefin tuna for all fleets fishing in the Convention Area. For information on Pacific bluefin tuna harvests in the Convention Area through 2020, see [http://isc.fra.go.jp/fisheries\\_statistics/index.html](http://isc.fra.go.jp/fisheries_statistics/index.html). For preliminary information for 2021, see <http://www.iattc.org/CatchReportsDataENG.htm>.

## **Proposed Regulations for Pacific Bluefin Tuna for 2022-2024**

This proposed rule would establish catch and trip limits for U.S. commercial vessels that catch Pacific bluefin tuna in the Convention Area and landing receipt submission deadlines for 2022-2024.

### *Catch Limits*

The catch limit for the entire U.S. fleet would be 523 mt in 2022. The biennial limit in 2023-2024 would be 1,017 mt and not to exceed 720 mt in a single year; therefore, the 2023 catch limit would be 720 mt, and the 2024 limit would be the lesser of the amount caught in 2023 subtracted from the biennial limit or 720 mt.

Over-harvest and under-harvest of the previous biennial catch limit would be accounted for in the subsequent biennial catch limit. Any over-harvest of the previous catch limit would be deducted from the subsequent catch limit, and up to 5 percent of any



under-harvest of the previous catch limit would be added to the subsequent catch limit. Consequently, the 2023-2024 biennial limit would be adjusted if there is an over-harvest or under-harvest of the 2021-2022 biennial limit. The proposed regulations refer to the 2021-2022 biennial limit for the purpose of clarifying its role in determining the 2023-2024 biennial limit.

NMFS would announce the 2023-2024 biennial limit in a notice published in the **Federal Register** in January or early February 2023. NMFS would announce the 2024 catch limit in a notice published in the **Federal Register** in January or early February 2024. These notices would also be posted on the NMFS website:

*<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>.*

#### *Trip Limits and Landing Receipt Submission Deadlines*

At the beginning of each period (semi-annual or quarter), the initial trip limit would be imposed unless at the start of the period, the threshold for the intermediate or lower trip limit is met. Similarly, if the intermediate trip limit has been imposed during the previous period, the intermediate trip limit would remain in effect unless at the start of the next period the threshold to reduce the trip limit to the lower trip limit has been met. In each year, if the annual limit is estimated to be met, the fishery would be closed.

#### **2022:**

The annual limit would be 523 mt with an initial trip limit of 20 mt. The trip limit would be reduced as follows:

- January - June: If cumulative catch is within 323 mt of the annual limit (*i.e.*, cumulative catch reaches 200 mt), the trip limit would be 15 mt. If cumulative

catch is within 223 mt of the annual limit (*i.e.*, cumulative catch reaches 300 mt), the trip limit would be 3 mt.

- July-September: If cumulative catch is within 273 mt of the annual limit (*i.e.*, cumulative catch reaches 250 mt), the trip limit would be 15 mt. If cumulative catch is within 198 mt of the annual limit (*i.e.*, cumulative catch reaches 325 mt), the trip limit would be 3 mt.
- October-December: If cumulative catch is within 223 mt of the annual limit (*i.e.*, cumulative catch reaches 300 mt), the trip limit would be 15 mt. If cumulative catch is within 100 mt of the annual limit (*i.e.*, cumulative catch reaches 423 mt), the trip limit would be 3 mt.

**2023:**

The annual limit would be 720 mt with an initial trip limit of 30 mt. The trip limit would be reduced as follows:

- January - June: If cumulative catch is within 320 mt of the annual limit (*i.e.*, cumulative catch reaches 400 mt), the trip limit would be 20 mt. If cumulative catch is within 220 mt of the annual limit (*i.e.*, cumulative catch reaches 500 mt), the trip limit would be 3 mt.
- July - September: If cumulative catch is within 290 mt of the annual limit (*i.e.*, cumulative catch reaches 430 mt), the trip limit would be 20 mt. If cumulative catch is within 200 mt of the annual limit (*i.e.*, cumulative catch reaches 520 mt), the trip limit would be 3 mt.
- October - December: If cumulative catch is within 250 mt of the annual limit (*i.e.*, cumulative catch reaches 470 mt), the trip limit would be 20 mt. If cumulative

catch is within 100 mt of the annual limit (*i.e.*, cumulative catch reaches 620 mt), the trip limit would be 3 mt.

**2024:**

If the annual limit is between 525 and 720 mt, the initial trip limit would 30 mt, and the trip limit would be reduced as follows:

- January - June: If cumulative catch is within 320 mt of the annual limit, the trip limit would be 20 mt. If cumulative catch is within 220 mt of the annual limit, the trip limit would be 10 mt. If cumulative catch is within 150 mt of the annual limit, the trip limit would be 3 mt.
- July - September: If cumulative catch is within 300 mt of the annual limit, the trip limit would be 20 mt. If cumulative catch is within 200 mt of the annual limit, the trip limit would be 10 mt. If cumulative catch is within 140 mt of the annual limit, the trip limit would be 3 mt.
- October - December: If cumulative catch is within 250 mt of the annual limit, the trip limit would be 20 mt. If cumulative catch is within 100 mt of the annual limit, the trip limit would be 3 mt.

If the annual limit is between 400 mt and 524 mt, the initial trip limit would be 20 mt, and the trip limit would be reduced as follows:

- January - June: If cumulative catch is within 300 mt of the annual limit, the trip limit would be 15 mt. If cumulative catch is within 200 mt of the annual limit, the trip limit would be 3 mt.

- July-September: If cumulative catch is within 250 mt of the annual limit, the trip limit would be 15 mt. If cumulative catch is within 150 mt of the annual limit, the trip limit would be 3 mt.
- October-December: If cumulative catch is within 200 mt of the annual limit, the trip limit would be 15 mt. If catch is within 100 mt of the annual limit, the trip limit would be 3 mt.

If the annual limit is between 297-399 mt, the initial trip limit would 15 mt, and the trip limit would be reduced as follows:

- January-June: If cumulative catch is within 220 mt of the annual limit, the trip limit would be 3 mt.
- July-September: If cumulative catch is within 200 mt of the annual limit, the trip limit would be 3 mt.
- October-December: If cumulative catch is within 100 mt of the annual limit, the trip limit would be 3 mt.

If the annual limit is 296 mt or less, the trip limit would be 5 mt for the entire year.

Under California law and regulations, electronic landing receipts (*i.e.*, e-tickets) are required for landings in California and are required to be submitted to the California Department of Fish and Wildlife within three business days (*see* California Fish and Game Code section 8046 and 14 California Code of Regulations § 197). Under this proposed rule, e-tickets would be required to be submitted within 24 hours if any Pacific bluefin tuna is included in a landing into California. This accelerated submission deadline would be required in order to better monitor catch limits.

NMFS would estimate when the overall catch is expected to reach the thresholds to reduce the trip limit (*e.g.*, from 30 mt to 20 mt, from 20 mt to 15 mt, or from 15 mt to 2 mt) or the annual limit based on available fishery information, such as landing receipts. NMFS would then make decisions on in-season actions based on those estimates. NMFS would encourage owners or operators of purse seine vessels to call NMFS at 562-432-1850 in advance of landing with an estimate of how much Pacific bluefin tuna was caught on each trip.

#### *In-season Action Announcements*

In-season actions to reduce trip limits imposed by NMFS would be effective upon the time and date that would appear in a notice on the NMFS website (<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>). In-season actions would also be announced over a USCG Notice to Mariners broadcast three times per day for 4 days on USCG channel 16 VHF. NMFS would then publish a notice of the reduced trip limit in the **Federal Register** as soon as practicable.

In 2022-2024, if NMFS determines that cumulative catch is expected to meet any of the thresholds described previously (based on landing receipts, or other available information) during the applicable months, an intermediate or lower trip limit would be imposed by NMFS using the in-season action procedures described previously.

When NMFS determines that the annual catch limit is expected to be reached in each year (based on landings receipts or other available fishery information), NMFS would prohibit U.S. commercial fishing vessels from targeting, retaining, transshipping or landing Pacific bluefin tuna captured in the Convention Area for the remainder of the

calendar year (*i.e.*, fishery closure). NMFS would provide a notice on the NMFS website and the USCG would provide a Notice to Mariners three times per day for 4 days on USCG channel 16 VHF announcing that targeting, retaining, transshipping or landing of Pacific bluefin tuna captured in the Convention Area will be prohibited on a specified effective time and date through the end of that calendar year. Upon that effective date, a commercial fishing vessel of the United States could not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area. However, any Pacific bluefin tuna already on board a fishing vessel on the effective date could be retained on board, transshipped, and/or landed within 14 days of the effective date, to the extent authorized by applicable laws and regulations. NMFS would then publish a notice of the fishery closure in the **Federal Register** as soon as practicable. In the event the trip limit was reduced early or the fishery was closed due to an overestimation of catch, NMFS could reverse immediately the prior in-season action to increase the trip limit or re-open the fishery after landing receipts have been received and the landed catch quantity confirmed. NMFS would announce these actions on the NMFS website and by USCG Notice to Mariners on USCG channel 16 VHF.

### **Catch Reporting**

NMFS would continue to provide updates on Pacific bluefin tuna catches in the Convention Area to the public via the NMFS website:

*<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>*. NMFS would update the NMFS website provided the updates do not disclose confidential information. These updates are intended to help participants

in the U.S. commercial fishery plan for reduced trip limits and attainment of the annual limits.

### **Classification**

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

### *Economic Analysis*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Under the Regulatory Flexibility Act (RFA), the SBA defines a “small business” (or “small entity”) as one with annual revenue that meets or is below an established size standard. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for RFA compliance purposes only (80 FR 81194). The \$11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. SBA current standards of \$20.5 million, \$5.5 million, and \$7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016. *Id.* at 81194.

The entities the proposed action would directly affect are all U.S. commercial

fishing vessels that may target (*e.g.*, coastal pelagic purse seine vessels) or incidentally catch (*e.g.*, drift gillnet vessels) Pacific bluefin tuna in the Convention Area. In 2020, there were 137 participants in the commercial fishery, whether targeting Pacific bluefin tuna or catching Pacific bluefin tuna incidentally. Not all vessels that have participated in this fishery decide to do so every year. For example, the coastal purse seine fleet participation in the Pacific bluefin tuna fishery has ranged from 5-9 during 2016-2020. These vessels are characterized in greater detail below. U.S. commercial catch of Pacific bluefin tuna from the IATTC Convention Area is primarily made in waters off of California by the coastal pelagic small purse seine fleet, which targets Pacific bluefin tuna opportunistically, and other fleets (*e.g.*, California large-mesh drift gillnet, surface hook-and-line, west coast longline, and Hawaii's pelagic fisheries) that catch Pacific bluefin tuna in small quantities, such as incidentally.

*U.S. Coastal purse seine fleet:*

Since 2006, the average annual revenue per vessel from all finfish fishing activities for the U.S. purse seine fleet that have landed Pacific bluefin tuna has been less than \$11 million, whether considering an individual vessel or per vessel average. From 2016-2020, purse seine vessels that caught tuna had an average ex-vessel revenue of about \$1,044,000 per vessel per year (based on all species landed). Annually, from 2016 to 2020, the number of small coastal pelagic purse seine vessels that landed Pacific bluefin tuna to the U.S. West Coast ranged from five to nine. Table 1 below summarizes the number of coastal purse seine vessels landing Pacific bluefin tuna in each year 2016-2020, along with total annual landings and revenues.



**Table 1 -- Number of small coastal purse seine vessels landing Pacific bluefin tuna to the U.S. West Coast, along with annual landings and revenues from Pacific bluefin tuna, 2016-2020. Landings and ex-vessel revenue are for all small coastal purse seine vessels that landed Pacific bluefin tuna in the year. Source: Pacific Fisheries Information Network**

<b>Year</b>	<b># of Vessels</b>	<b>Landings (mt)</b>	<b>Ex-vessel Revenue</b>
2016	5	315.72	\$351,767
2017	8	466.43	\$516,135
2018	8	11.53	\$11,378
2019	9	226.11	\$258,937
2020	6	116.19	\$126,054

The revenue derived from tuna is 11.3 percent of the overall revenue for coastal pelagic purse seine vessels that landed tuna (annually from 2016-2020), with the majority of revenue in recent years from Pacific sardine, market squid, and to a lesser extent yellowfin tuna. In particular, on average (annually 2016-2020) yellowfin tuna made up 65 percent of all tuna landings by this fleet. In the few years prior to implementing a trip limit in 2015 (*i.e.*, 2011-2014), 9 of 13 (*i.e.*, 69 percent) of trips conducted by purse seine vessels landing Pacific bluefin tuna exceeded 30 mt; all exceeded 20 mt. For 2015-2017, during which NMFS implemented a 25-mt trip limit, average catch per trip was 14.2 mt; 23 of 61 trips (*i.e.*, 38 percent) exceeded 20 mt, and 56 percent exceeded 15 mt. During 2018, NMFS imposed a 1-mt trip limit throughout the entire calendar year applicable to all U.S. commercial fishing vessels, except for drift gillnet, which was subject to a 2 mt trip limit, and purse seine vessels very likely did not target Pacific bluefin tuna. During 2019-2020, during which NMFS implemented a 15-mt trip limit, the average catch per trip was 9.8 mt; 19 of 35 trips (*i.e.*, 54 percent) exceeded 10 mt. Vessels meeting the trip limit before completion of a trip or fishing after the trip limit is reduced to 2 mt will likely shift their focus and target other species, such as yellowfin tuna, if available, or coastal pelagic species. This proposed rule is not expected to impose any direct

regulatory costs on pelagic purse seine vessels, although vessels would face indirect operational costs if they approach the trip limits or the total catch approaches the annual limit. Because this proposed rule is expected to affect about one- to two-thirds of trips (depending on the initial trip limit as well as whether the trip limit has been reduced) of a fishery that accounts for about two percent of annual revenues, there is not expected to be a significant negative impact to profitability. Revenues and costs, and corresponding profitability, of coastal purse seine vessels are not expected to be significantly altered as a result of this proposed rule.

*Other U.S. fleets that catch Pacific bluefin tuna:*

Since 2006, the average annual revenue per vessel from all finfish fishing activities for the U.S. fleet with landings of Pacific bluefin tuna in small quantities, such as from incidental catch or hook-and-line, has been less than \$11 million. These vessels include drift gillnet, surface hook-and-line, and longline gear-types. The revenues of these vessels are also not expected to be significantly altered by the proposed rule. From 2016 to 2020, between 7 and 14 drift gillnet vessels, 40 to 116 surface hook-and-line vessels, and 1 longline vessel landed Pacific bluefin tuna. During these years, vessels with gears other than purse seine landed an annual average of 55.2 mt of Pacific bluefin tuna, worth approximately \$487,300. Of these landings, only one trip out of approximately 1,700 over five years exceeded 3 mt of incidental Pacific bluefin tuna catch, and two additional trips were within 25 percent of the limit. The three vessels that took these trips close to or in excess of the 3 mt limit would be most likely to be impacted by this proposed rule; however, these trips represented less than 1 percent of these vessels' average annual revenue from all species. Furthermore, the proposed rule would

increase the lower trip limit from 2 mt to 3 mt to account for a potential increase in incidental catches per trip. As a result, it is anticipated that the proposed reduced trip limits will not have a significant impact on these vessels. If the fishery is closed before the end of the calendar year, regulatory discards by these fleets are likely. Such a scenario would result in a greater impact to the fleet that catches Pacific bluefin tuna in small quantities, as opposed to the coastal purse seine fleet, which would simply cease targeting of Pacific bluefin tuna. This could result in a greater conservation benefit for the overfished Pacific bluefin stock.

Although there are no disproportionate impacts between small and large business entities because all affected business entities are small, the impacts among the different types of vessel business entities will be different. Implementation of the reduced trip limit for an entire calendar year in this proposed action would impose a greater economic impact on the U.S. coastal purse seine fleet. Prior to the implementation of a 25-mt trip limit in 2015, these vessels landed an average of 41 mt per trip, and were capable of landing over 70 mt in a single trip (based on landings from purse seine vessels landing Pacific bluefin tuna in the EPO from 2011-2014). It is possible that the affected vessels will not target Pacific bluefin tuna if the trip limit is 3 mt or less; however, as observed in 2018 while the trip limit was restricted to 1 mt for purse seine vessels, some purse seine vessels did land Pacific bluefin tuna in small quantities. A total of 523 mt is available to U.S. vessels in 2022, and 1,017 mt in 2023-2024 for both years, combined.

Pursuant to the RFA and NMFS' December 29, 2015, final rule (80 FR 81194), this certification was developed using NMFS' revised size standards. NMFS considers all entities subject to this proposed action, which based on recent participation ranges from

88 to 137 because participation fluctuates substantially from year-to-year, to be small entities as defined by both the former, lower size standards and the revised size standards. Because each affected vessel is a small business, there are no disproportional affects to small versus large entities. Based on profitability analysis above, the proposed action, if adopted, will not have significant adverse economic impacts on these small business entities. As a result, an initial regulatory flexibility analysis is not required and was not prepared for this proposed rule.

#### *Paperwork Reduction Act*

This proposed rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995 (PRA). The existing collection of information requirements would continue to apply under the following OMB Control Number(s): 0648-0778, Reporting and Notification Requirements in West Coast Pacific Bluefin Tuna Fishery.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### **List of Subjects in 50 CFR Part 300**

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: February 25, 2022.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

1. The authority citation for part 300, subpart C, continues to read as follows:

**Authority:** 16 U.S.C. 951 *et seq.*

2. In § 300.24, revise paragraph (u) to read as follows:

**§ 300.24 Prohibitions.**

\* \* \* \* \*

(u) Use a United States commercial fishing vessel in the Convention Area to target, retain on board, transship, or land Pacific bluefin tuna in contravention of § 300.25(g)(2) through (6).

\* \* \* \* \*

3. In § 300.25, revise paragraph (g) to read as follows:

**§ 300.25 Fisheries management.**

\* \* \* \* \*

(g) *Pacific bluefin tuna (Thunnus orientalis) commercial catch limits in the eastern Pacific Ocean for 2022-2024.*

(1) *Biennial catch limit for 2021-2022.* The biennial catch limit for 2021-2022 is 739 metric tons.

(2) *Biennial catch limit for 2023-2024.* The biennial catch limit for 2023-2024 is either:

(i) 1,017 metric tons increased by the amount, not to exceed 37 metric tons, of Pacific bluefin tuna catch remaining from the 2021-2022 U.S. commercial catch limit; or,

(ii) 1,017 metric tons reduced by the amount of Pacific bluefin tuna caught in excess of the 2021-2022 U.S. commercial biennial catch limit.

(3) *Annual catch and trip limits for 2022.* For the calendar year 2022, all commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 523 metric tons. A 20-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates cumulative catch will be...	Then the trip limit will be...
(i) January through June	200 mt	15 mt
	300 mt	3 mt
(ii) July through September	250 mt	15 mt
	325 mt	3 mt
(iii) October through December	300 mt	15 mt
	423 mt	3 mt

(4) *Annual catch and trip limits for 2023.* For the calendar year 2023, all commercial fishing vessels of the United States combined may capture, retain, transship,

or land no more than 720 metric tons. A 30-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates cumulative catch will be...	Then the trip limit will be...
(i) January through June	400 mt	20 mt
	500 mt	3 mt
(ii) July through September	430 mt	20 mt
	520 mt	3 mt
(iii) October through December	470 mt	20 mt
	620 mt	3 mt

*(5) Annual catch and trip limits for 2024.*

(i) If the 2024 catch limit is between 525 and 720 metric tons, a 30-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	320 mt of the annual catch limit	20 mt
	220 mt of the annual catch limit	10 mt
	150 mt of the annual catch limit	3 mt
(B) July through September	300 mt of the annual catch limit	20 mt
	200 mt of the annual catch limit	10 mt
	140 mt of the annual catch limit	3 mt
(C) October through December	250 mt of the annual catch limit	20 mt
	100 mt of the annual catch limit	3 mt

(ii) If the 2024 catch limit is between 400 and 524 metric tons, a 20-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	300 mt of the annual catch limit	15 mt
	200 mt of the annual catch limit	3 mt
(B) July through September	250 mt of the annual catch limit	15 mt
	150 mt of the annual catch limit	3 mt
(C) October through December	200 mt of the annual catch limit	15 mt
	100 mt of the annual catch limit	3 mt

(iii) If the 2024 catch limit is between 297 and 399 metric tons, a 15-metric ton trip limit will be in effect until any of the following criteria are met:

If the time of year is...	And NMFS anticipates the cumulative catch is within...	Then the trip limit will be...
(A) January through June	220 mt of the annual catch limit	3 mt
(B) July through September	200 mt of the annual catch limit	3 mt
(C) October through December	100 mt of the annual catch limit	3 mt

(iv) If the 2024 catch limit is 296 metric tons or less, the trip limit will be 5 metric tons for the entire calendar year.

(6) *Closure of the fishery.* After NMFS determines that the annual catch limits under paragraphs (g)(3), (g)(4) and (g)(5) of this section are expected to be reached,



NMFS will close the fishery effective upon the date provided in the actual notice, in accordance with paragraph (g)(7) of this section. Upon the effective date in the actual notice, targeting, retaining on board, transshipping or landing Pacific bluefin tuna in the Convention Area shall be prohibited through the end of the calendar year, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed within 14 days after the effective date published in the fishing closure notice, to the extent authorized by applicable laws and regulations.

(7) *Announcement and effective dates of in-season actions.* In-season actions taken under paragraphs (g)(2) through (6) of this section will be by actual notice from posting on the National Marine Fisheries West Coast Region website (<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status>) and a United States Coast Guard Notice to Mariners. The Notice to Mariners will be broadcast three times daily for four days. This action will also be published in the *Federal Register* as soon as practicable. In-season actions will be effective from the time specified in the actual notice of the action (*i.e.*, website posting and United States Coast Guard Notice to Mariners), or at the time the in-season action published in the *Federal Register* is effective, whichever comes first.

(8) *Reversal of in-season actions.* If an in-season action taken under paragraphs (g)(2) through (6) of this section is based on overestimate of actual catch, NMFS will reverse that action in the timeliest possible manner, provided NMFS finds that reversing that action is consistent with the management objectives for the affected species. The

fishery will be subject to the change in trip limit or reopened effective on the date provided in the actual notice in accordance with paragraph (g)(7) of this section.

(9) *State of California fish landing receipts*. If landing Pacific bluefin tuna into the State of California, fish landing receipts must be submitted within 24 hours to the California Department of Fish and Wildlife in accordance with the requirements of applicable State regulations.

\* \* \* \* \*

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